IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

Crl.MC.No. 3488 of 2007()

CC.394/2003 of JUDL. MAGISTRATE OF FIRST CLASS-II, HOSDRUG

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PETITIONER:

P.V. SASEENDRAN, AGED 48 YEARS,
RESIDING AT CHERUVATHOOR P.O., CHERUVATHOOR,
KASARAGOD DISTRICT.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

STATE OF KERALA,
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3488 of 2007

Dated this the 26th day of November 2007

O R D E R

The petitioner/first accused faces indictment in a prosecution for the offence punishable under Section 420 I.P.C. Altogether there were three accused persons. Crime was registered in 1996. Cognizance was taken long earlier. The co-accused (Accused 2 and 3) have already been tried, found not guilty and acquitted. The case against the petitioner has been split up as he was not available for trial and the same has been transferred to the list of long pending cases in 2001. Coercive processes issued by the learned Magistrate are chasing the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007